

Congress of the United States

Washington, D.C. 20515

October 18, 2021

The Honorable Martin J. Walsh
Secretary
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, D.C. 20210

Dear Secretary Walsh:

We write to express our deep concern that the Department of Labor (DOL) has failed to reopen for in-person business, and we request specific information regarding your decision-making in this regard. In March 2020, DOL ceased its regular operations to protect its staff from the then-unknown threats of COVID-19. This change in operations resulted in the vast majority of DOL's personnel being put on telework status. At the time, with much unknown about transmission and before vaccines were widely available, this change for DOL personnel, as well as for workers in public and private work situations across the country, was appropriate. However, it was understood that remote work status was to be a *temporary* protective measure and not a new way of life for federal workers.

It is now October 2021. On April 19, the White House COVID-19 Response Team announced all people age 16 and older are eligible for the COVID-19 vaccine.¹ Under safety protocols developed by businesses around the country with the well-being of their workers and customers the top priority, workplaces are re-opening at a steady pace. Yet plans and deadlines for a return to work for DOL personnel announced in August have not been implemented—with the deadline for 50 percent occupancy by September 7 having long since passed. We now understand that further plans for a phased return to in-person work on October 7 and November 8 have both been scuttled by a new plan to *begin* phasing-in workers on January 3, 2022.² If these new phase-in plans take three months to be implemented, some DOL staff will have not seen their desks in two years.

Under its previous leadership, DOL was taking affirmative steps to lead by example and return to in-person business. As early as June 2020, most of DOL's senior leadership, appointees,

¹ See THE WHITE HOUSE, PRESS BRIEFING BY WHITE HOUSE COVID-19 RESPONSE TEAM AND PUBLIC HEALTH OFFICIALS, (Apr. 19, 2021), <https://www.whitehouse.gov/briefing-room/press-briefings/2021/04/19/press-briefing-by-white-house-covid-19-response-team-and-public-health-officials-30/>.

² See Ian Kullgren & Ben Penn, *Punching In: How Unions Are Handling the PRO Act in Budget Talks*, BLOOMBERG GOV'T, July 19, 2021, <https://www.bgov.com/core/news/#!/articles/QWHKU4DWX2PT>; Ben Penn, *Labor Department Delays Staff Office Returns by Three Months*, BLOOMBERG GOV'T, Sept. 22, 2021, <https://www.bgov.com/core/news/#!/articles/QZUQKUT1UM0W>.

and career and non-career Senior Executive Service (SES) staff had returned to in-person service in Washington, D.C.³

Under the Biden administration, DOL has reverted to having most of its workers who are not enforcement personnel work remotely. We are particularly concerned that DOL's senior leadership—including you and Deputy Secretary Julie Su—are not reporting to work in the national office daily and may be living somewhere other than the Washington, D.C., metropolitan area. According to your own calendar, during nearly your first five months as Secretary, you spent only 30 days in Washington, D.C.⁴

The mission of the Department is “to foster, promote, and develop the welfare of the wage earners, job seekers, and retirees of the United States; improve working conditions; advance opportunities for profitable employment; and assure work-related benefits and rights.”⁵ As the department with direct jurisdiction over the workforce, DOL has a particular duty to lead by example and re-open for in-person business. DOL also has that obligation to every worker around the country who has either returned to their worksites or had never left in the first place.

Accordingly, we ask you to bring as many DOL personnel and contractors as possible back to in-person service immediately. We also request you provide the following information:

1. All documents and communications since January 20, 2021, regarding plans to return DOL federal workers and contractors to in-person work status;
2. Daily Francis Perkins Building and Bureau of Labor Statistics entry and exit data (raw numbers only) from January 21, 2021, through September 30, 2021;
3. A list of all individuals who hold presidentially appointed positions, are in the SES, or hold Schedule C appointments and have the Washington, D.C. region as their duty station but are not regularly residing in the Washington, D.C. region;
4. An explanation of whether DOL has ensured all employees are being paid in accordance with the locality in which they reside and from which they work instead of where their official duty station is;
5. Your monthly schedules from August 1 through September 30, 2021;
6. Deputy Secretary Su's monthly schedules; and
7. Chief of Staff Daniel Arrigg Koh's monthly schedules.

³ See Ben Penn, *DOL to Begin Reopening Offices, Sending Senior Staff Back*, BLOOMBERG L., June 16, 2020, <https://news.bloomberglaw.com/daily-labor-report/dol-begins-reopening-offices-sends-senior-staff-back-next-week>.

⁴ DOL-WIDE FOIA LIBRARY, SECRETARY OF LABOR MARTY WALSH'S MONTHLY SCHEDULE, <https://www.dol.gov/general/foia/readroom>.

⁵ DOL, ABOUT US, <https://www.dol.gov/general/aboutdol#:~:text=Our%20Mission,work%2Drelated%20benefits%20and%20rights>.

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We look forward to your response with the information we requested by November 1, 2021. If you have any questions regarding this request, please contact Joe Wheeler with the Committee on Education and Labor at (202) 225-4527.

Thank you for your attention to this important matter.

Sincerely,



Virginia Foxx
Ranking Member
House Committee on Education and Labor



James Comer
Ranking Member
House Committee on Oversight and Reform



Rick W. Allen
Ranking Member
Subcommittee on Health, Employment,
Labor, and Pensions



Jody Hice
Ranking Member
Subcommittee on Government Operations



Fred Keller
Ranking Member
Subcommittee on Workforce Protections